INDEX-DIGEST

A

ACTIONS

Abolition of forms of actions under the Illinois Civil Practice Act of 1933 211–215

Pending and statutory actions under Illinois Supreme Court Rules of 1933 753–757

ADMINISTRATIVE LAW

Federal judicial review of activities of state commissions . . 777–784

Power of federal executive department heads to settle claims . 6–9

AGENCY

See also Bills and Notes

Apparent authority 337

Principal's liability for misrepresentation of agent 137

ANNULMENT

See Marriage

APPEAL AND ERROR

Illinois Civil Practice Act of 1933: Authority of the Reviewing Court 222–223

Jurisdiction and scope of appellate review 219–220

Notice of Appeal 67

Power of appellate court to review facts 220–222

Record, on appeal 220

Review in general 64–70

ASSIGNMENTS

See also Bankruptcy, Bills and Notes

Right of creditors to reach notes in hands of assignee 493

B

BANKRUPTCY

See also Contracts

Discharge, effect of, on an assignment of future wages . . . 488

BANKS AND BANKING

See also Bills and Notes

Validity of repurchase of securities agreements 794–797

BENEFICIARIES

See Trusts

BILLS AND NOTES

See also Assignments, Banks and Banking

In general: Joint and several obligation, confession of judgment . 801

Payee as a holder in due course 728–740

Checks: Automatic reduction of drawer's account where drawer certifies check 635–636

Knowledge of fictitious payee . . 342

Time for presentment 491

Negotiable Instruments Law:

§ 14 . . . . . 728, 735

§ 16 . . . . . 493, 728

§ 30 . . . . . 728, 734

§ 52 728–740

§ 186 491

§ 191 728–730

Proposed amendments to §§ 16, 30, 52 739–740

BURDEN OF PROOF

Effect of the use of the doctrine of Res Ipsa Loquitur . . . 523–535

Suicide, proof of, in suit on life insurance 151

C

CERTIORARI

Illinois Civil Practice Act provisions 65–67

Scope of review 801–803

CODES

See also Pleading

Practice and pleading under the Illinois Civil Practice Act of 1933 . .171–187, 188–208, 209–223

CONFLICT OF LAWS

See also Contracts, Equity, Trusts, Landlord and Tenant

Covenant to pay rent, situs of . . 344

Extraterritorial effect of custody decree 803–805

Situs of inter vivos trust of movables 494

Status of the child and conflict of laws 13–27

Validity of marriage contracted in violation of lex fori 496

CONSTITUTIONAL LAW

See also Criminal Law, Elections, Extradition, Habeas Corpus, Judgments, Police Power, Taxation

INDEX-DIGEST

A

ACTIONS

Abolition of forms of actions under the Illinois Civil Practice Act of 1933 211–215

Pending and statutory actions under Illinois Supreme Court Rules of 1933 753–757

ADMINISTRATIVE LAW

Federal judicial review of activities of state commissions . . 777–784

Power of federal executive department heads to settle claims . 6–9

AGENCY

See also Bills and Notes

Apparent authority 337

Principal's liability for misrepresentation of agent 137

ANNULMENT

See Marriage

APPEAL AND ERROR

Illinois Civil Practice Act of 1933: Authority of the Reviewing Court 222–223

Jurisdiction and scope of appellate review 219–220

Notice of Appeal 67

Power of appellate court to review facts 220–222

Record, on appeal 220

Review in general 64–70

ASSIGNMENTS

See also Bankruptcy, Bills and Notes

Right of creditors to reach notes in hands of assignee 493

B

BANKRUPTCY

See also Contracts

Discharge, effect of, on an assignment of future wages . . . 488

BANKS AND BANKING

See also Bills and Notes

Validity of repurchase of securities agreements 794–797

BENEFICIARIES

See Trusts

BILLS AND NOTES

See also Assignments, Banks and Banking

In general: Joint and several obligation, confession of judgment . 801

Payee as a holder in due course 728–740

Checks: Automatic reduction of drawer's account where drawer certifies check 635–636

Knowledge of fictitious payee . . 342

Time for presentment 491

Negotiable Instruments Law:

§ 14 . . . . . 728, 735

§ 16 . . . . . 493, 728

§ 30 . . . . . 728, 734

§ 52 728–740

§ 186 491

§ 191 728–730

Proposed amendments to §§ 16, 30, 52 739–740

BURDEN OF PROOF

Effect of the use of the doctrine of Res Ipsa Loquitur . . . 523–535

Suicide, proof of, in suit on life insurance 151

C

CERTIORARI

Illinois Civil Practice Act provisions 65–67

Scope of review 801–803

CODES

See also Pleading

Practice and pleading under the Illinois Civil Practice Act of 1933 . .171–187, 188–208, 209–223

CONFLICT OF LAWS

See also Contracts, Equity, Trusts, Landlord and Tenant

Covenant to pay rent, situs of . . 344

Extraterritorial effect of custody decree 803–805

Situs of inter vivos trust of movables 494

Status of the child and conflict of laws 13–27

Validity of marriage contracted in violation of lex fori 496

CONSTITUTIONAL LAW

See also Criminal Law, Elections, Extradition, Habeas Corpus, Judgments, Police Power, Taxation

Commerce Clause: Jurisdictional limitations on state power . . 89
Effect upon state power in blue sky legislation 88
Due Process of Law: emergency legislation 242–245
History of expansion of judicial powers under Fifth and Fourteenth Amendments . . 674–685
Necessity of notice and hearing . 643
Price fixing 237–239
Recovery legislation of 1933 . 685–691
Validity of "disorderly conduct" statutes 636
Validity of the National Industrial Recovery Act of 1933 . . 233–243
Impairment of Contracts: Extension of period of redemption after foreclosure sale 260
Historical survey 253
In general 249–265
Mortgage and insurance moratoria 249–265
Public emergency 259
Judicial Powers: Judicial review . 167
Construction and interpretation of the Constitution 666–671
Freedom to declare legislation unconstitutional 672
Judges of Supreme Court as statesmen in deciding validity of legislation 665–697
Limits on power to enjoin activities of state commission . . . 777–784
Stare decisis in determining validity of legislation 667–668
Theory of judicial review of legislation 666–674
Validity of recovery legislation of 1933 665–697
Legislative Powers: Federal tax on government lessees under instrumentality doctrine . . . 657
Illinois Income Tax of 1932 . . 124
Power of legislature to call for referendum on act calling conventions to ratify amendments to Federal Constitution . . . 498
Personal Rights: Right to vote at primaries: negroes as voters, remedy by mandamus . . . 142
Powers of individual states: Invasion by federal government 692–697
Separation of Powers: Recovery legislation of 1933 . . . 691–692

CONTRACTS

See also Agency, Bankruptcy, Specific Performance, Suretyship, Workmen's Compensation Acts
Anticipatory Breach: Bankruptcy as anticipatory breach 341
Defenses: Public policy as defense to breach of agreement to indemnity for disclosure of confidential information . . . 144
Impossibility 644
Offer and Acceptance: Silence as acceptance 145

CORPORATIONS

See also Libel and Slander, Securities
In General: Jurisdiction over foreign corporation 348
Upset price doctrine in Corporate reorganization; premature receivership 805–808
Corporate Powers and their Exercise: Position of corporation acting as co-trustee 629
Illinois Business Corporation Act of 1933: In general 357–393
Capital stock 358–359
Civil and criminal liability of directors for improper dividends 371–374
De facto corporations . . . 380–381
Liability of the shareholder for the issue price 364
Limitations upon the declaration and payment of dividends . 368–371
Liquidating dividends . . . 378–380
Purchase by a corporation of its own stock 364–366
Reduction of stated capital . 376–378
Remedies of the dissenting stockholder 388–389
Retiring stock 374–376
Rights of stockholders to secure financial information . . . 383–385
Sale of stock, consideration and payment 360–362
Stock subscriptions prior to incorporation 362
Termination of corporate existence 389–393
Treasury stock 366–368
Ultra vires doctrine . . . 381–383
Use of options to purchase and extent of presumptive rights 362–363
Voting 385–387
Stockholders: Pre-emptive right of stockholder in treasury stock . 645

COUNTIES

See Municipal Corporations, Statutes

COURTS
See also Declaratory Judgments, Statutes
In General: Power of Court to amend sentence at subsequent term under Probation Act . 152–153

CRIMINAL LAW
See also Evidence, Extradition
In General: Effect on pending prosecutions of repeal of constitutional provision 808–809
Defenses: Entrapment as a defense to proceeding under National Prohibition Act 115
Insanity: Divergence of legal and medical outlook 661
Reform: Criminal sociology 161–162, 351
Sentence: Use of evidence of prior offenses in fixing discretionary penalties 810–811
Trial: Necessity of motion before trial to suppress evidence obtained by illegal search and seizure 120

D

DAMAGES
See also Contracts, Suretyship

DEATH BY WRONGFUL ACT
Effect of wrongful death statute on survival of action 103
Statutory provision for survival of action 102
Survival of action for death by wrongful act 102–104

DECLARATORY JUDGMENTS
See also Judgments
Constitutionality 132

DISCOVERY
History and development under common-law systems of pleading 199–201
Nature and scope of the proceeding under the Illinois Civil Practice Act of 1933 . . . . 55, 199–205

DIVORCE
Conflict of laws and effect upon custody of child of divorce of parents 22–24

DOMICIL
See also Conflict of Laws, Parent and Child
Status of the child and domicil of parents or guardian . . . 13–27

E

ELECTIONS
Constitutionality of act controlling selection of presidential electors 636

EQUITY
See also Contracts, Injunctions, Parties, Procedure, Specific Performance, Trusts
In General: As a progressive force in growth of law 750–751
Conflict between law and equity 742–743
Nature of equitable rights . 743–747
Procedural value 749–750
Relation of law to equity . . 741–751
Clean Hands: Application of doctrine to separate causes of action 649
Jurisdiction of the Court: Enjoining the enforcement of a foreign equity decree 146
Trustee's application for advice as to the conversion of investment 40–41
Pleading: Provisions of the Illinois Civil Practice Act of 1933 relating thereto 184–185
Procedure: Distinctions between law and equity in code states . 214–215
Enforcement of foreign alimony decree by contempt proceedings 811–812
Union of law and equity under the Illinois Civil Practice Act of 1933 211–215

ESTOPPEL
Cestui estopped to object to trustee's acts in reference to conversion of investment 41–42

EVIDENCE
See also Burden of Proof, Criminal Law, Federal Courts
In General: Methods of proving a state of mind 396–398
Proof of criminal charge in civil suits 772–776
Expert Testimony: Value of blood tests to prove non-paternity 798–800
Hearsay: Dangers of hearsay . 413–414
Development of the state of mind exception 399–404
Dying declaration as evidence of state of mind 651
Hearsay statement to prove a state of mind to prove a past act . 420–423
Res gestae notion and the state of mind exception 400–403
States of mind and the hearsay rule 394–423

State of mind exception and the Hillmon Case 409–413
Uncommunicated threats to prove a state of mind . . . 407–408
Use of the res gestae notion to extend the state of mind exception 406–407

EXTRADITION
Necessity of criminality in asylum or demanding state . . . 157, 656
Use of injunction to compel state governor to surrender fugitive . 345

F

FEDERAL COURTS
See also Habeas Corpus
Construction of uniform laws in federal courts 652
Enjoining activities of state regulatory commissions . . . 777–784
Jurisdiction in multiple question cases 480
Power of federal appellate court to review ruling on motion for new trial 111
Rules of evidence in state and federal courts 785–794

FORECLOSURES
See Mortgages

G

GUARDIAN AND WARD
See also Conflict of Laws, Parent and Child, Specific Performance
Law governing the appointment of the guardian; effect of such appointment 26–27

H

HABEAS CORPUS
Effect of allegations in the petition 311–316
Effect of state court's finding of facts in federal hearing on the petition 319
Jurisdiction of federal courts: lack of corrective process in state court 307–320
Motion to discharge the writ . . 311
Rebuttal of state's evidence in petition 317–318

HEARSAY EVIDENCE
See Evidence

HISTORY OF LAW
In General: Influence of Mansfield on Blackstone's Commentaries 549–571
Mansfield's influence upon Blackstone's treatment of equity, quasi-contract, the law merchant, contracts 560–568
Relation between Mansfield and Blackstone 550–571

I

INCOME TAXES
See also Constitutional Law, Taxation
Constitutionality of Illinois Income Tax of 1932 124

INFANTS
See Specific Performance, Suretyship

INJUNCTION
See also Extradition
Liability of complainant on bond under Norris-LaGuardia Act of 1932 328

INSURANCE
See also Burden of Proof
Duty of insured to disclose . . . 654
Failure to act upon insurance application as breach of duty creating tort liability 346
Impairment of Contract 262
Sunstroke as death by accidental means 812–813

INTERNATIONAL LAW
Treaties: Analogy to contracts . 606–607
Construction of treaties . . 614–622
Date of taking effect . . . 605–606
Definition of "treaty" 604
Effect of conflict between treaty and Act of Congress . . . 611–612
Effect of conflict between treaty and state law 612–614
Effect of executive agreements 608–609
Interpretation by United States Supreme Court 602–622
Limitations on treaty-making power 609–611

INTER-STATE COMMERCE
Control by Congress: Advantages over former system 76
Reorganization by railroads under Bankruptcy Act 71–81
Reorganization scheme under Bankruptcy Act 74
Control by Courts: Inefficiency of equity receivership 73

J

JUDGES
Right of federal judge to comment on the evidence 335

JUDGMENTS
Declaratory Judgments, constitutionality of 132
Summary judgment, history of . 196–197
Summary judgments under the Illinois Civil Practice Act of 1933 197–199
Under Illinois Civil Practice Act of 1933 69

JUDICIAL REFORM
Abuses of judicial power . . . 168

JURISDICTION
See Federal Courts

JURISPRUDENCE
Comparison between law and natural science 351
Science and philosophy of law . 351, 504
Science of legal method 351

JURY
Instruction to the jury under the Illinois Civil Practice Act of 1933 206
Waiver of trial by jury under the Illinois Civil Practice Act of 1933 205

L

LANDLORD AND TENANT
See also Bankruptcy, Contracts
Situs of covenant to pay rent . . 344

LAW
Distinction between law and equity in code states 214–215
Union of law and equity under the Illinois Civil Practice Act of 1933 211–215

LAW SCHOOLS
See also Teaching of Law
Departments of jurisprudence proposed 518

LEASES
See Landlord and Tenant

LEGAL ACCOUNTING
Study of 509–510

LEGAL BIOGRAPHY
Ernst Freund and the field of legislation 92–94, 94–96

LEGAL EDUCATION
See also Legal Biography
Legal aid clinic course . . . 469–479

LEGAL ETHICS
Study of texts, cases and authorities 170, 828–830

LEGISLATION
See also Police Power, National Recovery Act, Trade Unions
Proposed federal tort claims bill . 1–12

LIBEL AND SLANDER
Due care in publication of matter secured from news services . . 156
Intra-corporate privileged communications 499
Newspaper publication 508

LICENSING AND SAFETY ACTS
Breach of, as bar to recovery . . 502

LOTTERIES
Newspaper advertising 508

M

MARRIAGE
See also Conflict of Laws
Fraud or misrepresentation as grounds for annulment . . . 128

MORTGAGES
Equity of Redemption: Extension of period in emergency . . . 249–265
Foreclosure: Abolition of deficiency judgment in emergency . . . 261
Right of trustee to purchase the property on behalf of all bondholders 623
Priorities: Claim of junior mortgagee to lien for payment of taxes 813–815

MUNICIPAL CORPORATIONS
Effect of failure of County Board to follow statutory requirements . 647

N

NATIONAL INDUSTRIAL RECOVERY ACT OF 1933
See also Constitutional Law, Trade Unions
Title One 320–327

NEGLIGENCE
See also Burden of Proof, Libel and Slander
Contributory negligence as defense for federal government under proposed torts claim bill . . 9
"Host-guest" automobile statutes . 349
Liability of federal government for acts of officer or employee . . 2

NEW TRIAL
Judgment notwithstanding the verdict under the Illinois Civil Practice Act of 1933 . . 206–207

P

PARENT AND CHILD
See also Specific Performance
Conflict of laws and custody of the child 21–25
Conflict of laws and the status of the child 13–27
Death of a parent and the custody of the child 24–25
Domicil of the parents and legitimacy 14–21
Legal personality of the child and domicil of parents . . . 13–14

PARTIES
See also Pleading
Changes under Illinois Civil Practice Act of 1933 52–81
Joinder of parties, necessary and permissive under the Illinois Civil Practice Act of 1933 . 149, 172–180

PARTNERSHIP
Liabilities of beneficiaries of business trust 815–817

PATENTS
See Equity

PERSONS
See Parent and Child

PLEADING
See also Parties
In General: Criticism of the third party provisions of the Chicago Municipal Court Rules . . 540–548
Multiple and concealed theories of recovery under code pleading 183–184
Nature of third party practice 536–539
Illinois Civil Practice Act of 1933:
Abolition of forms of action . 585
Answer 55, 587
Bills of particulars 55
Blind pleadings 216–218
Code reforms in general . . . 49
Complaint, changes in . . . 54, 580
Counterclaim 55, 585
Defensive pleading 584, 587
Demurrer 55, 584
Effect of Hilary Rules of 1834 . . 217
Equitable defenses 590
"Facts" in pleading 180–182
Illinois Supreme Court Rules . 765–769
Joinder of causes of action and provision for separate trials . 185–186
Joinder of parties 587
Pleas in abatement 584
Reply 55, 591
Suits by "real party in interest" 216
Third party provisions . . . 539–540

POLICE POWER
See also Constitutional Law
Nature and Extent: Attitude of the Supreme Court to direct regulation of industry . . . 245–248
Attitude, probable, of the Supreme Court towards the National Industrial Recovery Act of 1933 245–248
Business affected with public interest 237–243
Constitutionality of the National Industrial Recovery Act of 1933 233–243
Content of the National Industrial Recovery Act of 1933 . . 230–233
Definition, objectives, scope . 224–226
Emergency legislation . . . 242–245
Limitation on the freedom of contract 236–237
Purposes of the National Industrial Recovery Act of 1933 230–233
Regulation of Trade and Industry:
Child labor legislation . . 228–230
Economic influence in the expansion of police power . . . 226–228
Economic reconstruction . . 224–248
Minimum wage guarantee . . 229
Unemployment insurance . . 228–229
Yellow dog contracts . . . 228–230

PRESUMPTIONS
Relation of presumptions to evidence 636

PROCESS
Provisions relating thereto in the Illinois Civil Practice Act of 1933 . . . . . 50, 51, 193–195

PROHIBITION
See Equity

PUBLIC SERVICE COMPANIES
Regulation: In general . . . 451–469
Choice of unit of rate-making and public policy 466–467
Company wide theory of rate fixing 453–466
Contrast between United States and England 267
Difficulties of jurisdiction in United States which do not obtain in Great Britain 273
Ineffectiveness of traditional methods 269
Local area theory of rate fixing . 452
Mixed undertakings in Great Britain and United States . . 280
Personal problem 269
Progress in Great Britain in past six or seven years 275
Public Utility Trust in Great Britain 280
Suggested reforms—functional organization of commissions in Europe 274
Trend toward "public-minded" commissions 271

Types of statutes 468
Why cost in Great Britain is less than in United States . . . 272

R

RAILROADS
See Interstate Commerce

REORGANIZATIONS
See Mortgages

RES IPSA LOQUITUR
See also Burden of Proof
Analysis and criticism of the doctrine 519–535
Suggested changes in the use and effect of the doctrine . . . 529–535
Use of the doctrine when specific acts of negligence are pleaded . 526–529
Various effects of the application of the doctrine 523–526
When the doctrine may be invoked 519–523

S

SALES
Agreements to repurchase 343

SEARCH AND SEIZURES
Right of Owner of Equity of redemption to disclosures 500

SECURITIES
Federal Securities Act of 1933: Broker, as underwriter . . . 302
Dependency of retailer on originating houses 301
Difficulties raised by various sections 292–294
Effect upon investment banking 283–306
Hardship on dealer 304
Probable effect on problem of underwriting 288
Suggested liability of the issuing house 291
Types of underwriting 286

SPECIFIC PERFORMANCE
Affirmative doctrine of mutuality . 631
Contract to support infant . . . 153

STATUTES
See also Courts, Discovery, Elections, Equity, Injunctions, Judgments, Jury, New Trial, Parties, Pleading, Police Power .
Construction of particular classes of statutes: Trustees permission to retain or convert trust investment: rules 42–45
Federal corrupt practices . . . 636
Federal Probation Act 152
Illinois Bulk Sales Law 343
Illinois Civil Practice Act of 1933 171–187, 188–208, 209–223
Illinois Income Tax Law of 1932 . 124
National Prohibition Act . . . 115
Norris-La Guardia Act 328
In general 81–88
Interpretation: Background of Congressional procedure 82
Effect of failure of County Board to follow statutory directions . 647
Use of Committee reports by courts 86

STUDY OF LAW
See also Law Schools
Changing concepts in legal education 511–519
Function of casebooks . . . 659, 662

SUBROGATION
See Suretyship

SUMMARY JUDGMENTS
See Trials

SURETYSHIP
Liability for default of infant principal 153–154
Rights of surety to pro tanto subrogation 155

SURVIVAL OF ACTION
See Death by Wrongful Act

T

TAXATION
In General: Evasion by the courts in the settlement of tax disputes in Illinois 701, 710, 716
Excise tax upon stock sales made outside the jurisdiction . . 817–818
Litigation in Illinois from 1928 to 1933 698–727
Mandamus proceedings to compel tax board to revise assessments 707–710, 725–727
Power of court to declare assessments invalid 701, 706
Retroactive estate tax . . . 822–823
Exemptions: Presumption of capacity to have issue and succession tax 820–822
Revenue property of Y.M.C.A. . 501
Status of government lessees under "instrumentality" doctrine . . 657
Income Tax: Deduction for debt paid after discharge through creditors composition . . 818–820

Property Tax: Failure of general property tax in Illinois . . 712–715
Increasing burden on real estate in Illinois 698–701
Judicial enforcement of constitutional requirement of uniformity 716–718
Uniformity theory of the Illinois Constitution 713–715

TEACHING OF LAW
See also Study of Law
Equity 163
Principles of jurisprudence . . 511–518
Real Property 165

TORTS
See also Insurance, Libel and Slander, Negligence
Breach of criminal statute as bar to recovery 502
"Host-guest" automobile doctrine . 349
Increasing tort liability of federal government 5–9

TRADE UNIONS
National Industrial Recovery Act of 1933: Collective bargaining 573, 579
Company Unions . . 574, 577, 579
Effect of § 7 (b) on § 7 (a) . . 578
Effect on closed shop agreements . 576
Enactment of collective bargaining provisions similar to § 7 (a) in other legislation 573
History of collective bargaining principles of § 7(a) . . . 573, 575
Interpretation of § 7(a) National Industrial Recovery Act . . 572

TREATIES
See Extradition, International Law

TRIAL
See also Criminal Law, Federal Courts
In general: Rule making power of courts in England and America 188–191
Illinois Civil Practice Act of 1933:
Appearance 52
Declaratory judgments . . . 60
Findings of fact 64
Illinois Supreme Court Rules 757–765, 769–771
Instructions 62
Non-suit 58
Specific verdicts 63
Summary judgments 58
Venue under the English rules and common law 191–193

TRUSTS
See also Corporations, Equity
In general: cestui estopped to object to acts of trustee as conversion of investments 41–42
Situs inter vivos for determination of validity of inter vivos trust . 494
Study of, in conjunction with Wills and Future Interests . . 826–828
Powers and obligation of trustee: Application to court of equity for advice as to conversion of investments 40–41
Attitudes as duty in reference to trust investments: Text writers, Restatement, Judicial . . 28–33
Beneficiary estopped to objecting to conversion of investments 41–42
Construction of settlors language with regard to retention of corporate securities in event of issuance of new shares, subscription rights 38–40
Construction of settlors language with regard to the retention of corporate securities in event of merger or consolidation . . 37–38
Duty to convert investments when settlor has given specific directions 35–37
Duty with regard to conversion of investments 28–48
Factors in the determination of whether investments should be retained or converted . . 45–47
Legislation as to the duty of retaining or converting investments 42–43
Rules as to retention and conversion of investments 44–45

V

VALUATION OF PROPERTY
Economic fallacies in the courts' determination of "value" . . 96–101

VENDOR AND PURCHASER
Risk of loss, contract containing forfeiture clause 824–825

VENUE
Illinois Civil Practice Act of 1933 . 50

VERDICT
See Trial

W

WORKMEN'S COMPENSATION ACTS
Suicide as compensable . . . 105–109
Theory and constitutionality . 159–160
Volition as affecting compensation . 105